IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7925 of 2005

Between:

S.PARTHASARATHI, S/o. Krishna Murthy,
Divisional Manager's Office, APSRTC, Pulivendula, Kadapa

District.

..... PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C., Koilakuntla Depot,
Kurnool district.
2 The Regional Manager, A.P.S.R.T.C., Kurnool Region,
Kurnool.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of Certiorari and call for the records relating to and connected with the proceedings of the 2nd respondent in proceedings No.PA/19(50)/2005-RMO dt.26-02-2005 confirming the order of the 1st respondent in proceedings No.01/122(3)2002-KKL dt.18-12-2004 and to quash the same.

Counsel for the Petitioner:MR.C.B.RAM MOHAN REDDY

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

This writ petition is filed questioning the proceedings of the second respondent dated 26.02.2005, whereunder the second respondent confirmed the proceedings of the first respondent dated 18.12.2004.

A charge sheet has been issued to the petitioner alleging certain irregularities said to have been committed by him. The charge levelled against the petitioner reads as under:

> "For having failed to service notices time to time on the licensee of popcorn for payment of monthly rental charges from 01.01.2002 to 01.03.2003 (After adjusting Rs.18,000/- for the months August & September, 2002) an amount of RS.42,776/- is still outstanding from the licensee cause heavy loses to the corporation, which constitutes misconduct in terms of clause (xxxii) of Reg.28 if APSRTC Employees (conduct) Reg. 1963".

The disciplinary authority after considering the explanation offered by the petitioner ordered for recovery of an amount of Rs.32,082/- from the salary of the petitioner in 15 equal monthly instalments commencing from December, 2004. The said order has been confirmed by the appellate authority. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the petitioner was not at all incharge for a particular period and, therefore, he cannot be held responsible for the loss suffered by the Corporation. He further contended that without determining the fact whether the petitioner caused loss to the Corporation, the

proceedings dated 18.12.2004 have been passed. Hence, he prays to set aside the same.

Learned standing counsel for the respondent-Corporation opposed the same on the ground that the first respondent after considering the explanation of the petitioner came to the conclusion that the petitioner caused loss to the Corporation and, therefore, impugned proceedings dated 18.12.2004 have been passed. Hence, there is no need to conduct any departmental enquiry to fix liability on the petitioner.

The petitioner failed to issue notices to the contractor for payment of monthly rental charges from 01.10.2002 to 01.10.2003 and caused loss to the Corporation. It constitutes misconduct in terms of clause (xxxii) of Reg.28 of APSRTC Employees (conduct) Reg. 1963". The petitioner was served with the charge sheet dated 18.07.2003, for which he offered his explanation stating that he was not acting as clerk during that relevant point of time. Whether the petitioner served notices on the contractor or was negligent are required to be proved since the petitioner denied the charge levelled against him. Therefore, in the fitness of things, respondent-Corporation ought to have conducted enquiry and fixed the liability on the petitioner. As the principles of natural justice have been violated and no opportunity has been afforded to the petitioner to put forward his case, the order under challenge suffers from serious legal infirmities. Hence the proceedings of the first respondent dated 18.12.2004 are set aside and the matter is remitted to the disciplinary authority. The disciplinary authority is directed to dispose of the same within a period of three months from the date of receipt of a copy of this order after giving reasonable opportunity to the petitioner.

Accordingly, the writ petition is disposed of. No costs.

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(K.C.BHANU,J)

Dt:11th April, 2005

usd

To

1 The Depot Manager, A.P.S.R.T.C., Koilakuntla Depot,
Kurnool district.
2 The Regional Manager, A.P.S.R.T.C., Kurnool Region,
Kurnool.

3 2 CD copies

4 1 CC to MR.RAM MOHAN REDDY

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